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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,284	07/24/2003	Erdman O. Spradlin	M309	1463
7590	01/26/2005		EXAMINER	
Robert L. Marsh P.O. Box 4468 Wheaton, IL 60189-4468			GREEN, CHRISTY MARIE	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/626,284	SPRADLIN, ERDMAN O.	
Examiner	Art Unit		
Christy M Green	3635		(M)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 24 July 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-12 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/10/04.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: *attached figure (1)*.

## DETAILED ACTION

This is a first office action for serial number 10/626284, entitled Gutter System with Snap Together Parts, filed on July 24, 2003.

### ***Claim Objections***

Claims 1 and 8 are objected to because of the following informalities: in claim 1 within line 5, is the arcuate portion the same thing as the curved portion as stated within the disclosure? The limitations within the disclosure should coincide with the limitations in the claims; also, in claims 1 and 8, lines 7 and 10, respectively, applicant states "may be", it seems that this limitation is indefinite, it is unclear if the limitations following the phrase are actually incorporated into the invention or not. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Skinner, US patent # 4,632,342.

Skinner discloses the claimed invention a length of gutter having a vertical fascia panel, the improvement comprising, an arcuate portion (attached figure 3) between said floor panel (50) and said fascia panel (48), and an outer lip (at 56A) extending generally horizontally from said outer panel wherein an end of a first length of said gutter may be

nested into an end of a second length of gutter (by 62, figure 7); a gutter system comprising a plurality of gutter lengths (at 16), said gutter lengths each having two ends (seen in figure 6), a plurality of gutter unit portions (70, 72, 80), said gutter unit portions each having at least one end (figure 6), said ends of said gutter length and said ends of said gutter unit portion (70, 72, 80) shaped for nesting in an adjacent end of another of said gutter lengths and said gutter unit portions (seen in figure 6), and said ends of said gutter lengths (16) and said ends of said gutter unit portions having tabs wherein said tabs may be folded over to lock said nested ends to one another (by 62, 64); said gutter unit portions (80) include down spout drops (at 76), corners (76a), and end caps (78b).

Claims 6 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Formanek et al., US patent # 3,592,721.

Formanek discloses the claimed invention a length of gutter having a vertical fascia panel, comprising, a lip (22) extending from an upper edge (33) of said outer panel, a plurality of transverse cuts (37) in said lip (22) to form a plurality of adjacent tabs (35), a plurality of transverse cuts (39) in an upper edge of said fascia panel (18) to form a second plurality of tabs (figure 2), and said length of gutter having an end (figure 3) configured for nesting into an end of an adjacent length of gutter (at corner) wherein said tabs on said lip and said tabs on said fascia panel may be folded over to lock nested ends to one another (column 3, lines 16-21); a gutter unit portion (12) comprising an end adapted to nest with respect to said end of said length of gutter (column 3, lines 16-20), and a tab for folding over a portion of said length of gutter for locking said unit gutter portion to said end of said length of gutter (column 3, lines 16-21); a fascia panel

(18) having an upper end (where 18 points to), and a plurality of spaced cuts (39) in said upper end, said spaced cuts forming said tab (attached figure 2); and, a forward panel (33), a lip (22) on said forward panel, a plurality of spaced cuts (39) in said lip (22), said spaced cuts forming said tab (at 35).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Formanek et al., US patent # 3,592,721.

Formanek discloses the claimed as stated above in claim 6, including a floor panel (26) and a fascia panel (18), an outer lip (22). Formanek does not disclose an arcuate or curved portion between the floor panel and the fascia panel. It would have been an obvious matter of design choice to provide an arcuate or curved portion between the floor panel and the arcuate portion, since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. Also, the applicant has not disclosed that this curved portion solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the portion of the gutter as it is disclosed in the cited art.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 703-308-9693. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cl.  
Cg  
December 11, 2004

Lynn M. Hester  
Yvonne M. Hester

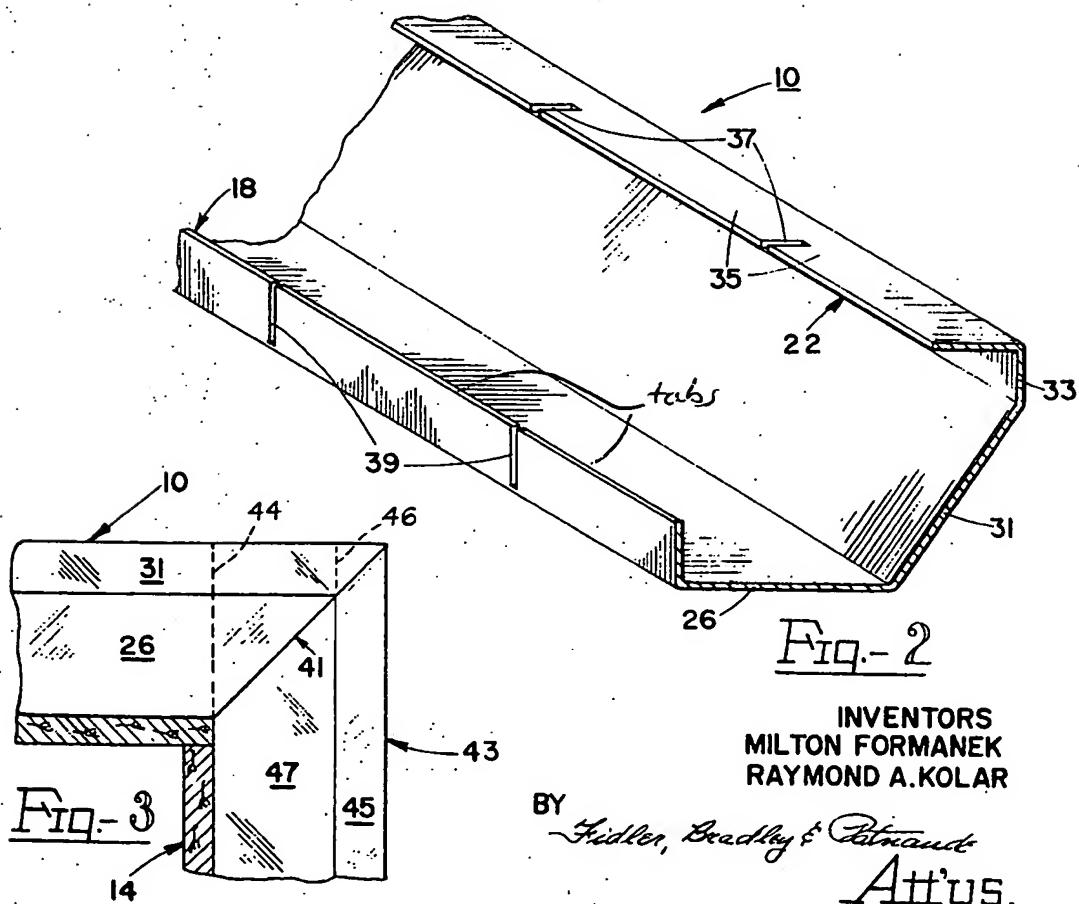
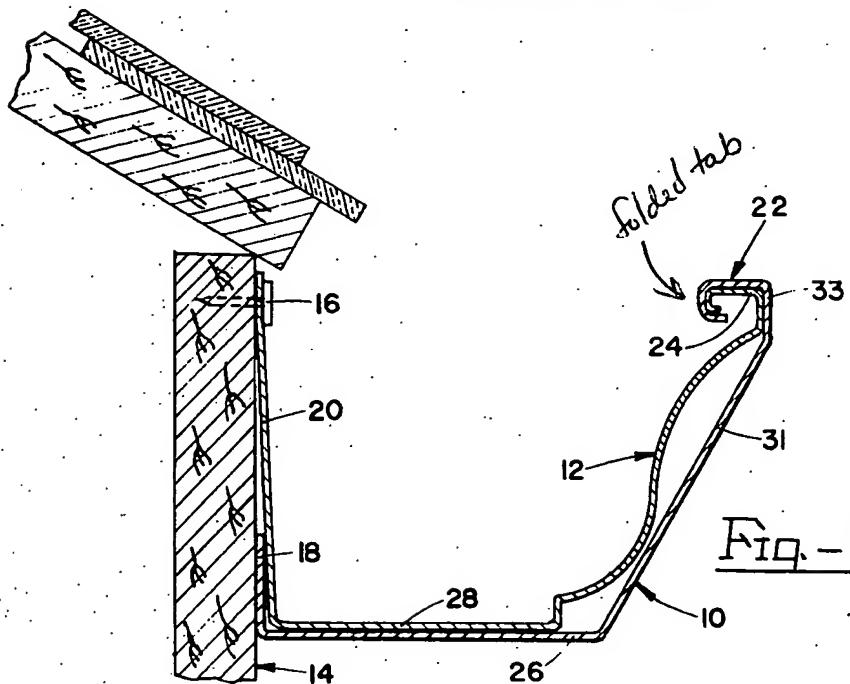
July 13, 1971

M. FORMANEK ET AL

3,592,721

SNAP-ON DECORATIVE GUTTER COVER

Filed Feb. 19, 1969



INVENTORS  
MILTON FORMANEK  
RAYMOND A. KOLAR

BY  
*Fidler, Bradley & Patrican*  
Att'y's.